APPENDIX "A"

Appendix "A" is the Brief of defendant Union Bag & Paper Corp. filed in the U. S. Circuit Court of Appeals, copies of which accompany this Brief.

APPENDIX "B"

COPY R-899

For Immediate Release
Friday, July 12, 1940

U. S. DEPARTMENT OF LABOR
WAGE AND HOUR DIVISION
Washington

SMOOT DREDGE EMPLOYEES HELD SEAMEN BY FLEMING

Colonel Philip B. Fleming, Administrator of the Wage and Hour Division, U. S. Department of Labor, this afternoon announced that he has reached the conclusion that the employees operating the dredges and other floating equipment of the Smoot Sand and Gravel Corporation are seamen. Seamen are exempt under Section 13 (a) (3) of the Fair Labor Standards Act from the benefits of the Wage-Hour Law.

Colonel Fleming's letter to the Smoot Corporation follows:

"Gentlemen:

"I have given considerable thought to the question of whether employees operating the dredges and other floating equipment of the Smoot Sand and Gravel Corporation are seamen within the meaning of Section 13 (a) (3) of the Fair Labor Standards Act, and although the Solicitor's Office has expressed the view that those men probably are not seamen under that statute, I have not been able to agree with this opinion and consequently have reached the conclusion that such employees in the light of the factual data which your representatives have submitted, are seamen.

"You understand, of course, that the Administrator's interpretation of the statute is subject to review by the courts, but I propose to adhere to this view unless at some future date my administrative construction is deemed erroneous by a court of competent jurisdiction."

(4946)